

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Citizens Tel Coop Petition for Waiver of	)	WC Docket 08-71
High-Cost Universal Service Filing	)	
Deadline	)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION  
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> submits these comments pursuant to the December 22, 2011 Public Notice by the Federal Communications Commission (the Commission)<sup>2</sup> regarding the petition of Citizens Tel Coop (Citizens)<sup>3</sup> for waiver of the October 3, 2011 filing deadline set forth in Section 54.314(d) of the Commission's rules for receipt of universal service funds. NTCA respectfully asserts that Citizens has shown good cause for the Commission to grant the requested waiver.

**I. BACKGROUND.**

Headquartered in Floyd, Virginia, Citizens is a regional full service communications provider offering land-line telephone, VoIP, IPTV Video, web and e-mail hosting, and

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<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents nearly 600 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> *Wireline Competition Bureau Seeks Comment on the Citizens Tel Coop Petition for Waiver of a High-Cost Universal Service Filing Deadline*, WC Docket No. 08-71, DA 11-2033 (rel. December 22, 2011) (Public Notice).

<sup>3</sup> *Citizens Tel Coop Petition for Waiver of Section 54.314(d) of the Commission's Rules*, WC Docket No. 08-71 (filed November 23, 2011) (Petition).

broadband services via DSL, and Fiber to the Premise and Fiber to the Home. Citizens serves seven counties in Southwest Virginia.

Pursuant to Section 54.314(d) of the Commission's rules, rural incumbent local exchange carriers that are not subject to state jurisdiction are required to file an annual certification with the Commission and the Universal Service Administrative Company (USAC) stating that the carrier "will only use support for the provision, maintenance, and upgrading of facilities and services for which support is intended."<sup>4</sup> The filing of such certification is a requirement of the receipt of universal service support.

Citizens' 2011 Rural Self Certification was due October 3, 2011. However, the employee who was responsible for filing by that date failed to do so. Citizens was notified on October 5, 2011 that it had not filed, and immediately overnighted the certification, which was received by USAC on October 6.<sup>5</sup>

## **II. CITIZENS HAS SHOWN GOOD CAUSE MERITING RELIEF, AND WAIVER OF THE FILING DEADLINE IS IN THE PUBLIC INTEREST.**

Citizens has demonstrated in its Petition good cause to grant the waiver and that the waiver, in this situation, is in the public interest. There is no pattern of abuse, nor any intent to defraud. It is readily apparent that the missed reporting deadline was the result of an internal mistake. Further, once the mistake was identified, the certification was promptly submitted and immediate steps were taken both to rectify the problem as well as to implement new internal procedures to ensure future compliance.<sup>6</sup>

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<sup>4</sup> 47 C.F.R. §54.314(d).

<sup>5</sup> Petition, p. 1.

<sup>6</sup> "This failure to file has been noted in the [responsible] employee's personnel file. Also, effective immediately, this filing responsibility has been assigned to a team of employees versus just one employee to eliminate a single point of failure of this filing in the future." Petition, p. 1.

Granting Citizens' Petition serves the public interest. The Commission may waive any of its rules for good cause shown,<sup>7</sup> such as where strict compliance to a filing deadline is inconsistent with the public interest. Under circumstances such as these, the Commission should not permit the imposition of any consequence that would jeopardize the ability of Citizens to maintain quality and affordable service in such an expansive rural area, contrary to the public interest.

NTCA therefore believes that Citizens has met the burden of showing good cause in this particular matter. Granting Citizens' waiver petition is in the best interests of the consumers it serves, and the requested relief will not harm any other providers.

### **III. CITIZENS HAS CONSISTENTLY ACTED IN THE SPIRIT OF THE UNIVERSAL SERVICE PROGRAM, AND ITS CONSUMERS SHOULD NOT BE PENALIZED AS THE RESULT OF A ONE-TIME CLERICAL ERROR.**

The ultimate goal of the universal service program is to provide rural consumers with the comparable quality of service available in non-rural areas, at reasonable prices. Typically, rural areas are much more expensive to serve due to lower population densities, geographic barriers, and a general absence of the economies of scope and scale that benefit those providers serving non-rural areas. Often, it is only the receipt of universal service support that makes it possible for a provider to serve its high-cost customers. Without that support, many customers living in the most remote and highest-cost areas would go unserved.

Carriers such as Citizens recognize that receipt of universal service funding comes with an obligation to ensure effective and responsible use of such resources, and that reporting and certification requirements such as those in Section 54.314 are essential tools in ensuring these support mechanisms serve their intended purpose. Repeated or intentional flaunting of these requirements would certainly warrant consequences.

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<sup>7</sup> 47 C.F.R. §1.3.

It would be unfair and unjust, however, to penalize Citizens, which has an otherwise unblemished record, for a single error. Punitive action taken against such a carrier for a one-time clerical mistake could have the unfortunate consequence of causing harm to that carrier's customers, and possibly limit the affordability, quality, and/or variety of telecommunications services the customers may receive.

Citizens has a long and distinguished record of service to its community and its consumers. This has been largely accomplished as the result of carefully planned financial investments made for the benefit of customers. The Commission should therefore grant a waiver in response to the instant Petition, to ensure that a simple mistake will not ultimately harm Citizens' ability to sustain the provision of high-quality, affordable service to its customers, consistent with the public interest and the spirit and intent of the universal service program.

#### **IV. CONCLUSION**

For the above-noted reasons, NTCA respectfully requests that the Commission grant Citizens' waiver petition.

Respectfully submitted,



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January 23, 2012

## **CERTIFICATE OF SERVICE**

I, Adrienne L. Rolls, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WC Docket No. 08-71, DA 11-2033, was served on this 23<sup>rd</sup> day of January 2012 via electronic mail to the following persons:

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